

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application Ser. No.: 10/510,310

Group Art Unit: 2875

Filing Date: 10/06/2004

Examiner: W. J. CARTER

Attorney Docket Number NL020329

Confirmation No.: 7470

Inventor Name(s): PETERS

Title: LIGHTING UNIT

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

REPLY BRIEF

Sir:

Applicant reiterates his prior statements and offers the following additional remarks in response to the reformulation of the rejections in the Examiner's brief.

Definition of "sleeve" (all claims)

The Examiner newly makes the rather amazing statement "the Examiner has defined a sleeve surrounding light source (22) as items 10 and 24 (Fig.1). Because the sleeve is defined as items 10 and 24, cap (10) forms part of a sleeve (10 and 24) surrounding light source (22)."

This statement completely ignores the case of Phillips v. AWH Corp. 415 F.3d 1303; 2005 U.S. App. LEXIS 13954; 75 U.S.P.Q.2D (BNA) 1321, (Fed. Cir. July 12, 2005, decided, as amended July 14, 2005) which stands for the proposition that the specification and drawing are supposed to be the primary source of interpretation of claim terminology. It is not the

Examiner's prerogative to define terminology any way he sees fit.

The specification explicitly distinguishes its use of the word "sleeve" from what is shown in the reference. The Examiner is not free to ignore this contextual definition.

The specification contains the following text on pages 1 and 2 [emphasis added]

Such a lighting unit is known from EP 0336478. The light source is provided with an outer envelope. A cap impermeable to light is provided on the outer envelope at the side facing the light emission window. It is a problem to keep the opaque cap in place, because a direct connection between the cap and the outer envelope is exposed to major stresses owing to the large temperature differences that arise. This often leads to a failure of the connection in practice, so that the location of the relevant cap is no longer safeguarded. The problem identified above is aggravated if the light source is realized by means of a high-pressure discharge. A cap formed by a thin-walled metal bush, which is passed with clamping force over the outer envelope is also found to have no reliable positioning when exposed to the thermal stresses. Fastening of the cap to the reflector by means of radial fastening arms has the disadvantage that the fastening arms block out reflected light and thus interfere with the light beam formed by the reflector.

The invention has for its object to provide a solution to the above problem such that the above disadvantages are eliminated. According to the invention, the lighting source is for this purpose characterized in that the cap forms part of a sleeve surrounding the light source. A sleeve is often used as a protection means if there is a risk of a non-passive failure of the light source at end of life. It is especially a high-pressure discharge that involves a risk of a non-passive failure of the discharge vessel at end of life. The sleeve is preferably formed from a glass, which is at least resistant to a temperature of 600 °C, such as hard glass, quartz

glass, and quartz, and is fastened to the reflector at the area of the holder. The sleeve is provided with a coating impermeable to light at the area of the cap.

In this context, it is apparent that the present application uses specific vocabulary to distinguish the reference. The reference includes a light source 22, 23 and an envelope 24. The present application includes a light source 31, 32, 33, and envelope 34, and a sleeve 60. These words have been carefully and precisely defined in context with the reference in mind. The sleeve is not the envelope. Moreover, the envelope of Maassen, with its separate cap 10 is clearly NOT intended to fall within the purview of what Applicants define as “sleeve” and “cap forms part of the sleeve.” The text of the specification clearly sets forth that the meaning of “sleeve” is intended to distinguish the reference. The Examiner is not free to ignore this contextual definition. The Examiner’s ignoring of the contextual definition of the words of the claims is improper and reversible.

Definition of “transition” (claim 3)

The Examiner similarly ignores the contextual definition of the word “transition” in the specification. The specification includes the following text [emphasis added]

Figs. 2A and 2B are separate elevations of sleeves according to the invention. In Fig. 2A, the portion of the sleeve 60 forming the cap 5 is provided with an edge 62 which is transverse to the axis of symmetry and which is impermeable to light. Emission of light originating from that portion of the light source, which is situated between the cap and the holder is prevented thereby in a simple and effective manner. In the modification of Fig. 2B, the edge 63 is formed as a transition between the cap 5 and a sleeve portion 64 between the cap and the holder.

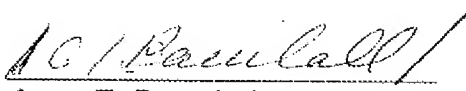
This text clearly sets forth a definition of “transition” with respect to Fig. 2B, which is distinguished from Fig. 2A. In Fig 2A, the edge is transverse – and in fact constitutes an interruption between the cap and the sleeve, which would otherwise be continuous. In Fig. 2B, the edge is different. It is a transition between the cap and sleeve, which otherwise be discontinuous.

Given this definition, in context in the specification, the edge of the reference, which is transverse and protrudes from the sides of the envelope and cap, is more similar to the embodiment of Fig. 2A than the embodiment of 2B, where the edge is a transition as defined in the portion of the specification cited. In the embodiment of Fig. 3, the edge also functions as a transition.

The Examiner’s ignoring of these definitions is improper and reversible.

The board is respectfully requested to reverse the rejections and allow the claims to issue.

Respectfully submitted,

By 

Anne E. Barschall
Reg. No. 31,089
(914) 332-1019
fax 914-332-7719
November 12, 2007